

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF OHIO

3 WESTERN DIVISION

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5 UNITED STATES OF AMERICA, : CRIMINAL NO. 1:13-CR-53

6 Plaintiff, : Hearing on Revocation of

7 -vs- : Supervised Release

8 MICHAEL BARTLETT, : Monday, December 11, 2017

9 Defendant. : 11:10 a.m.

10 : Cincinnati, Ohio

11 - - -

12 TRANSCRIPT OF PROCEEDINGS
13 BEFORE THE HONORABLE SUSAN J. DLOTT, JUDGE

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PROCEEDINGS

(In open court at 11:10 a.m.)

COURTROOM DEPUTY: United States of America versus
Michael Bartlett, Case Number 1:13-CR-53.

THE COURT: Good morning to everyone.

Let me ask counsel to please enter their appearances for the record.

MR. GLASSMAN: May it please the Court, Ben Glassman on behalf of the United States.

MS. SAVIR: Good morning, Your Honor. Karen Savir on behalf of Michael Bartlett.

THE COURT: And are you Michael Bartlett?

THE DEFENDANT: Yes, I am, Your Honor.

THE COURT: And are you represented in this proceeding by Karen Savir, an attorney who's present here in court with you today?

THE DEFENDANT: Yes, Your Honor.

THE COURT: We're here today on a supervised release violation. A report has been prepared by the Probation Department, by Ms. Mutter from the Probation Department, and it was -- let's see, the date of the second amended report is October 25th, 2017.

Let me ask counsel, have you received a copy of the report, Mr. Glassman?

MR. GLASSMAN: Yes, Your Honor.

1 THE COURT: And, Ms. Savir, have you received a copy
2 of the report?

3 MS. SAVIR: Yes, Your Honor.

4 THE COURT: And, Mr. Bartlett, have you received a
5 copy of the report?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And have you had an opportunity to discuss
8 it with your attorney, Ms. Savir?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Mr. Glassman, what are the charges in this
11 proceeding?

12 MR. GLASSMAN: Well, Your Honor, the petition for --
13 the underlying charges was filing a false document with respect
14 to taxes, 18 U.S. Code Section 287. With respect to the
15 petition for the supervised release revocation, that was for
16 a -- the petition was for a new law violation. That would be a
17 violation of 18 U.S. Code Section 1028 with respect to the
18 fabrication of a State of Ohio driver's license.

19 THE COURT: Okay. But I understand -- you're only
20 proceeding, as I understood it, on a supervised release
21 violation?

22 MR. GLASSMAN: With respect to the supervised release
23 violation, I have spoken with Ms. Savir and we have discussed
24 the matter, and it is agreeable to the government to proceed as
25 a Grade C violation of supervised release inasmuch as

1 Mr. Bartlett provided false information to a potential
2 employer.

3 THE COURT: Okay. All right. And how does your
4 client plead to the charge, Ms. Savir?

5 MS. SAVIR: Your Honor, he pleads guilty to providing
6 untruthful information to a potential employer.

7 THE COURT: All right. Then I'll hear from you in
8 mitigation.

9 MS. SAVIR: Yes, Your Honor.

10 Your Honor, as you know from reading the underlying
11 PSI and the violation report and Dr. Heintzelman's letter to
12 the Court, Mr. Bartlett has had to contend with significant
13 mental illness since he was a teenager. When untreated,
14 Mr. Bartlett's symptoms include command auditory
15 hallucinations, dangerous highs and lows, and difficulty
16 understanding that he is suffering from mental illness at all.
17 That's what happens when he's unmedicated.

18 But even when Mr. Bartlett is off his medication, he
19 has never been physically violent or aggressive. As indicated
20 in the letter from Dr. Heintzelman, Mr. Bartlett is a quiet
21 individual. He is kind. He is highly intelligent. And he is
22 a loving father and a devoted husband.

23 Your Honor, he's been out of prison for approximately
24 two-and-a-half years. This is his first revocation proceeding.
25 His supervised release was otherwise set to expire in June,

1 approximately six months from now.

2 Mr. Bartlett is very sorry to be standing before you
3 today. He very much wants to be a productive, law-abiding
4 individual, and he wants to successfully complete his term of
5 supervision. Your Honor, no one is perfect. Even people who
6 don't have to address and overcome significant mental illness
7 make mistakes. Mr. Bartlett's mistake was being untruthful to
8 a potential employer in order to pass a background check. He
9 allowed his desperation to get hired and his experience of
10 being denied employment because of his criminal background to
11 subsume his better judgment.

12 As you know from reading the letter from
13 Dr. Heintzelman, he has submitted over 1,200 applications since
14 he's been out of prison. He has had over 200 interviews with
15 potential employers and has had 12 contingent job offers, and
16 in each of these instances, Mr. Bartlett fully disclosed his
17 criminal background and was denied employment because of it.
18 So that's the context here surrounding this violation conduct.

19 His poor decision to lie during the application
20 process, to pass the word, was clearly misguided. And this
21 doesn't excuse his behavior, but it was a result of
22 desperation. At the time he thought if I could just get in the
23 door, I'll do good work, and I'll be able to support my family.
24 He had no nefarious motives. The government has not pointed to
25 or the Probation has not pointed to any evidence that he was

1 trying to secure this job in order to steal from them. He just
2 wanted to get in the door and do good work.

3 He has specialized skills and he has the intelligence
4 to get a good job, and it's very tragic and unfortunate that
5 his record is preventing him to do so. He understands that he
6 went about getting hired in the wrong way, and you will hear
7 that from him directly today. He knows that what he did
8 constitutes a violation of supervised release and that the
9 Court is likely to revoke him today and will then decide what
10 an appropriate disposition is based on the nature of the
11 violation.

12 So he stands before you today accepting full
13 responsibility for his actions, and he is prepared to hear and
14 do whatever you think is appropriate moving forward.

15 In deciding what an appropriate sentence is for
16 Mr. Bartlett, I would ask that you take Dr. Heintzelman and
17 Dr. Small's input into consideration. The guideline range for
18 a Grade C violation is 6 to 12 months based on a criminal
19 history category IV. But Your Honor knows that the guidelines
20 are advisory and the Court can craft any kind of sentence that
21 Your Honor finds reasonable and appropriate given the
22 circumstances. Mr. Bartlett has been a patient of
23 Dr. Heintzelman and Dr. Small since he was 16 years old. His
24 mental illness goes way back. As you know from reading their
25 letter of support, Dr. Heintzelman and Dr. Small are requesting

1 that you consider an alternative to imprisonment today based on
2 a number of mitigating circumstances and the belief that
3 imprisonment is not only unnecessary but that sending
4 Mr. Bartlett to prison would be counterproductive to the
5 overall goals of sentencing which include effectuating
6 necessary medical or psychiatric treatment in the most
7 effective manner under 3553(a).

8 Your Honor, by way of background and in order to
9 understand why continuing Mr. Bartlett on supervision is
10 important from our perspective, I want to talk about
11 Mr. Bartlett's criminal record. Mr. Bartlett's criminal record
12 is a category -- he falls into a category IV, and I want to
13 note that his prior convictions are theft-related offenses
14 which occurred when Mr. Bartlett was off his medication and not
15 in consistent therapy.

16 His underlying federal offense is tax fraud.
17 Mr. Bartlett committed that offense when he was psychiatrically
18 unstable as well. Mr. Bartlett was, from my perspective, very
19 lucky to have a prosecutor who looked into his history of
20 mental illness. Mr. Glassman was not only willing to look into
21 it, but I know that he traveled to Dr. Heintzelman's office and
22 met with him for an over -- for over an hour. That was
23 reported to me by Dr. Heintzelman. And the government, after
24 meeting with Dr. Heintzelman back then, was agreeable to a
25 downward variance based on his significant mental impairment

1 based on the mental illness. And the parties at that time were
2 able to agree to a sentence of 12 months and a day.

3 And that agreement was contingent on a condition of
4 supervised release which was Court-ordered participation in
5 mental health counseling and an order to comply with prescribed
6 antipsychotic medication. And the importance of this condition
7 of supervised release obviously cannot be overstated. The
8 mandatory condition has worked to keep Mr. Bartlett on his
9 medication and in continuous treatment with Dr. Small and
10 Dr. Heintzelman who had treated him before since the age of 16
11 but on a voluntary basis so they had no power to force him to
12 come when he needed to come and to stay on medication as he
13 needed to stay on it. But this condition of supervised release
14 empowered them to make sure that he was doing what he needed to
15 do and that they would be able to monitor him on a very
16 structured, consistent basis. And they have reported to me and
17 they will report to Your Honor that the Court's involvement in
18 managing his mental illness has been incredibly helpful to them
19 in treating him.

20 His three-year term of supervised release started back
21 on June 5th in 2015 since he has been participating in
22 Court-ordered treatment with Dr. Heintzelman for about
23 two-and-a-half years. And Dr. Heintzelman reports that
24 Mr. Bartlett is consistent and compliant with his medication
25 regimen and is functioning well, and they consider him to be in

1 a state of remission because of his compliance and because of
2 the Court's decision to intervene with respect to his mental
3 health treatment.

4 Dr. Heintzelman also believes that the best way to
5 handle this violation is through psychotherapy. He and
6 Mr. Bartlett have already engaged in a good deal of therapy
7 related to the violation. And it is his position, and you'll
8 hear this from him today, that he believes that no good can
9 come of interrupting his therapy and his medication monitoring
10 by sending him to prison at this stage.

11 Your Honor, Dr. Heintzelman is in the best position to
12 advance this argument, so I will ask that you hear from him
13 shortly. Our request, though, at base, is that you consider an
14 alternative to incarceration -- the guidelines are advisory,
15 they are not binding on this Court -- and that you instead
16 consider extending his term of supervision. Don't send him to
17 prison but extend -- revoke him, extend the term of supervision
18 so that he can continue being under Court-ordered treatment,
19 Court-ordered medication, and allow them to address this
20 violation through therapeutic means.

21 If this were a situation where there was any evidence
22 of a nefarious motive behind his desire to get employment
23 through untruthful means, I believe that we would not be
24 standing here today making this argument, but that is not the
25 case. This is an individual who has spent his entire term of

1 supervision trying to utilize his very specialized skills.
2 He's a highly intelligent individual capable of doing
3 specialized work that could -- that could financially support
4 his family. But he has bumped up against the reality of an
5 extensive criminal background, and that is something that he
6 needs to figure out and deal with through therapy, and he is
7 doing so. They are discussing a game plan on how to move
8 forward and how to make sure that he is employable.

9 And, again, this is also not a situation where he had
10 been doing this multiple times. This is there is a history of
11 applying for jobs in a very, very truthful manner, in fact,
12 laying out his criminal convictions up front before even
13 engaging in interviews to ensure that his criminal background
14 wouldn't prevent him from ultimately getting hired; and each
15 time he was told that they would absolutely consider him, there
16 were no guarantees, but he could potentially secure employment
17 with whatever company he was applying for but they first needed
18 to go through their process. And so each time he was truthful,
19 and each time he was crushed by the outcome. And this decision
20 was a bad one. He should not have done it. He's very sorry
21 that he decided on this one occasion to apply for a job in an
22 untruthful way. Fortunately, it was caught immediately, and he
23 has been dealing with it in therapy ever since.

24 So I would ask that you hear from Dr. Heintzelman
25 today and from Mr. Bartlett himself before determining what's

1 appropriate moving forward.

2 THE COURT: All right. Thank you.

3 MS. SAVIR: Thank you.

4 THE COURT: You may present the evidence any way you
5 want.

6 MS. SAVIR: Dr. Heintzelman, will you come to the
7 podium?

8 THE COURT: Dr. Heintzelman, would you be more
9 comfortable just sitting at counsel table? You can just pull
10 the microphone over to you and testify from there.

11 DR. HEINTZELMAN: I think it would be fine if I just
12 keep my right hand on this.

13 THE COURT: Are you sure? Because --

14 DR. HEINTZELMAN: Just one.

15 THE COURT: Okay. Or you can sit in the witness
16 stand. Whatever would be more comfortable for you.

17 DR. HEINTZELMAN: Well, actually it might be a little
18 bit more comfortable.

19 THE COURT: Yes, that's fine.

20 DR. HEINTZELMAN: Sure thing.

21 THE COURT: Good morning.

22 DR. HEINTZELMAN: Good morning.

23 THE COURT: I told Ms. Savir I recall you testifying
24 in front of me once before.

25 DR. HEINTZELMAN: Yes. Yes.

Do you want me to proceed or --

THE COURT: I think, Ms. Savir --

MS. SAVIR: Sure.

THE COURT: -- are you going to ask him questions?

MS. SAVIR: I can surely proceed in that manner, if you're comfortable with that.

DR. HEINTZELMAN: Sure, that would be fine.

EXAMINATION

BY MS. SAVIR:

10 Q. Dr. Heintzelman, would you state your name and occupation
11 for the record?

12 A. Yes. Mark Heintzelman. I'm a clinical psychologist, PhD.

13 Q. And what is your relationship --

14 MS. SAVIR: Would you like him sworn in?

15 MR. GLASSMAN: I don't -- it's -- I defer entirely to
16 the Court. I was wondering whether he needs to have an oath or
17 not.

18 THE COURT: As to --

19 MR. GLASSMAN: Whether the doctor should take the oath
20 or not.

21 THE COURT: Oh. It doesn't make any difference to me.

22 MR. GLASSMAN: That's fine.

23 MS. SAVIR: Okay. Thanks, Bill.

24 THE COURT: Do you want to sit down, Mr. Glassman and

25 Mr. Bartlett? Would you like to sit down while Dr. Heintzelman

1 testifies?

2 THE DEFENDANT: No, thank you, Your Honor. I prefer
3 to stand.

4 THE COURT: Okay.

5 MR. GLASSMAN: Thank you, Your Honor. The same.

6 BY MS. SAVIR:

7 Q. Dr. Heintzelman, would you explain to the Court what your
8 relationship is with Mr. Bartlett?

9 A. As you indicated, Mr. Bartlett first became a patient of
10 myself and my partner, Dr. Small, when he was 16 years old.
11 And at that time, he was presenting with significant psychotic
12 decompensation, was diagnosed as bipolar disorder with
13 psychosis. And, you know, at the age of 16, he was very much
14 out of control. That was -- the onset of his illness probably
15 precedes that by about six months, and he was seen by another
16 psychiatrist prior to our establishing a relationship with him
17 and -- and the family was not happy with the treatment. He was
18 misdiagnosed and was not medicated properly or diagnosed
19 properly. So -- and he's been a patient of ours I would say
20 off and on for over 24 years. I say "off and on" because it's,
21 as is the case for most individuals diagnosed, my experience
22 with bipolar disorder, especially at the level of severity of
23 Mr. Bartlett's, that compliance with medication is very, very
24 challenging and are going off and on their medication. And
25 that's one of the tragedies of this illness that -- that so

1 many of those people that are diagnosed with bipolar illness
2 are unusually gifted and talented and yet find the stigma of
3 being on medication to be almost intolerable as well as the
4 changes in subjective sense of self.

5 When you think about bipolar illnesses, including mania
6 which is very euphoric experience associated with feelings of
7 grandiosity, feelings of omnipotence, it's really hard to
8 imagine losing the euphorogenic qualities of that experience;
9 and that, among other reasons, makes it very difficult for many
10 people, even the leading, most well-known researcher in the
11 area of bipolar illness herself was not willing to take
12 medication till she was right around Mr. Bartlett's age despite
13 being diagnosed at 17 and was able amazingly, despite having a
14 incredibly chaotic life experience, was one of the most
15 prolific and productive researchers in the field of bipolar
16 illness.

17 And so I kind of want to make it clear to the Court the
18 severity of Mr. Bartlett's illness. When Dr. Small and I first
19 took Mr. Bartlett on as a patient at age 16, I honestly didn't
20 expect him to be alive at this point in time. It is one of the
21 most fatal diagnoses, it is the most fatal diagnosis in
22 psychiatry, highest suicide rates, and Mr. Bartlett's situation
23 was particularly malignant, shall we say, given the added
24 aspect of having auditory hallucinations, being very
25 delusional, and seemed to be very what I would call a brittle

1 bipolar case, meaning that off medications, could decompensate
2 pretty quickly, and yet was, despite that, was very resistant
3 to taking medications because of delusions of grandeur,
4 delusions of omnipotence which as I indicated earlier, often
5 accompany this illness. And it's very much a disorder, a
6 biologically based disorder of the brain that affects mood
7 regulation and ultimately judgment. And --

8 Q. And what is your role with respect to his treatment in
9 comparison to Dr. Small's role?

10 A. I see him more on a psychotherapeutic basis trying to --
11 we've worked a lot earlier on with learning self-hypnotic
12 skills because Mr. Bartlett is also very, despite some of his
13 what you would think as the grandiosity, is a socially anxious
14 person, and I think that comes a lot from being having -- being
15 significantly bullied throughout his middle school years and
16 his high school experience because of his being a socially -- I
17 guess viewed as being socially inept, very intelligent; so a
18 lot of it was having to have him work with issues around
19 confidence and issues about compliance and the importance of
20 the psychoeducational element to it which is reinforcing the
21 importance of staying with medication and the risk of going on
22 or off medication. It makes a person more brittle, so to
23 speak, in terms of making any subsequent periods of going off
24 medication that much more severe, and that seems to be borne
25 out in research that the more often that you go off the

1 medication and go back on it, the more severe the mood
2 disregulation and the judgment appears to be.

3 So Dr. Small knows Mr. Bartlett very well and would have
4 personally been here if he hadn't suffered a heart attack three
5 weeks ago and is in recovery. But he's always monitored the
6 medication, oversaw medication, but has also had a therapeutic
7 relationship secondarily to mine with Mr. Bartlett.

8 Q. And has -- are you aware whether Dr. Small has had to
9 modify the medications being prescribed throughout the years?

10 A. There has been some modification to a point where I think
11 we finally achieved a polypharmacy mix, if you will, that works
12 very well for Mr. Bartlett. And for most cases with bipolar
13 illness in this day and age, that it's unipharmacy or having
14 one medication that addresses all the features associated with
15 bipolarity, it's very unusual, especially in Mr. Bartlett's
16 case where you have -- when he decompensates or when he is no
17 longer on medication, becomes quickly pre-psychotic and prone
18 to auditory hallucinations and command hallucinations as you
19 referenced earlier.

20 I think it's important for the Court to understand just
21 how -- it's hard to, seeing Mr. Bartlett as he presents now,
22 it's hard to realize just how severe his situation has been.
23 I've seen him and known him since he was 16 when he was totally
24 out of control and totally -- again, I'm surprised he's alive
25 given the, you know, suicidal attempts, given hospitalizations,

1 given the impulsive reckless behaviors associated with the
2 onset of bipolar illness, particularly during the most
3 vulnerable times in our life which is adolescence when you're
4 already going through all kinds of hormonal changes, you know,
5 add bipolarity to that and you've got a very dangerous, for the
6 sufferer, a very dangerous situation.

7 Q. Now, you treated Mr. Bartlett prior to his term of
8 incarceration, obviously, since the age of 16.

9 A. That's correct.

10 Q. What changes have you noticed since his release from prison
11 and what has your experience with him been since then?

12 A. Well, it's been pretty dramatic in that for the first time,
13 this is probably about two years ago, year-and-a-half ago, I
14 think Mr. Bartlett showed a sign of fully recognizing just the
15 benefits of being on medication because he was on it long
16 enough to really experience the benefits of it and that how
17 quiet his mind could become on medication. And despite our
18 efforts repeatedly, our efforts, myself and Dr. Small, to have
19 Mr. Bartlett treated when he was incarcerated, there's never
20 been any success in getting the mental health personnel to
21 follow through with that treatment. So he's been unmedicated
22 in every situation in which he's been incarcerated, despite our
23 assurances that he would be treated. And so it's only been I
24 would say the most stable period of his life has been the last
25 two, two-and-a-half years where it's been a dramatic change in

1 terms of his acceptance of it. I think being a husband and
2 being a father of two young sons that he adores and is very
3 committed to making their life one of quality, and I think
4 that's really made a shift in his consciousness and --

5 Q. Now, are you aware of the nature of the violation --

6 A. Yes, I am.

7 Q. -- that has brought Mr. Bartlett to court today?

8 A. Right.

9 Q. And can you shed any light as to perhaps what motivated the
10 poor decision making and what your view of the violation is?

11 A. Yes, I -- what I've been witness to, and I think I've
12 indicated this in the letter I wrote, that is seeing
13 Mr. Bartlett being very enthusiastic and hopeful about being
14 employed by the companies that were very impressed with his
15 skill set, and I think for the departments they interviewed
16 with, they were hopeful that human resources would overlook
17 his -- his criminal record knowing his mental illness, and he
18 was open about that and honest about that. And to then be told
19 sometimes as long as two months after the process of pre --
20 pre-employment that his human resources had declined his
21 employment opportunities, it was very crushing, as you said, to
22 him.

23 And I see that probably the biggest precipitant to his
24 being untruthful in his job application, the most recent one,
25 was the notification on the part of his mother that his father

1 is retiring and probably retiring within a week or so and that
2 they wouldn't be able to sustain the kind of support they've
3 been able to provide him, and I saw certain desperation with
4 Mr. Bartlett as to how he was going to provide for his family.
5 I know his -- I've talked to his mother. I know she's
6 feeling -- was feeling extremely guilty and worried that
7 letting him know about their financial status would put
8 enormous pressure on him but that it was necessary to do so,
9 and it was going to be inevitable that he was going to find out
10 that they couldn't support him at the same level of -- that
11 they had been assisting him in his support. Keeping in mind
12 that Mr. Bartlett had -- has had periodic short-term jobs that
13 have been more -- I guess they've been more by design, you
14 know, four to six months in length. They've been -- and
15 they've been not through being hired by the company but I
16 believe from, if I'm not mistaken, that it's been through
17 headhunters or a temp agency that will hire somebody for a
18 brief period of time for a specific -- a specific job or a
19 specific role but not being hired on as a employee of that
20 particular company. So the liability factor is not there in
21 the same way it would be presumably if hired by GE or P&G.

22 Q. Now, are you aware that the government is seeking a prison
23 sentence in this matter based on the violation?

24 A. Yes, I am.

25 Q. And why did you feel that it was important for you to come

1 to court today?

2 A. Well, I think that there would be tragic for a number of
3 reasons. One, he's not going to be treated psychiatrically in
4 any meaningful way, at least if history repeats itself, and
5 it's been at least four, minimum three or four times that we've
6 tried to impress upon the prison officials of the importance of
7 him being on medication and that he suffers from a severe
8 biological disorder.

9 It would be, I think, devastating to his family. I know it
10 would be in terms of the financial impact.

11 I also think that it would be tragic in that he's made such
12 remarkable progress given -- given the severity of the illness
13 that he inherited and that he's come so far, and to see it end
14 up in a -- in prison would be tragic for not only him
15 personally but I think for society in a sense. You know, I
16 think he can be, given the right opportunity, a very --
17 contribute significantly to -- to society in terms of being a
18 good citizen, being a hard worker, being a tax-paying
19 individual, and just personally be a huge loss for myself and
20 Dr. Small to see someone that has come so far from being so
21 severely afflicted with mental illness to only be incarcerated
22 and I think would make his illness worse. I know it would
23 compromise his health. And I would see -- personally, I don't
24 know how there would be any benefit to society whatsoever for
25 him being incarcerated. And --

1 Q. What would you propose the Court do in this situation?

2 A. I think as I probably indicated in my letter, that extended
3 probation, mandatory therapy. I don't -- and the kind of
4 oversight that's been provided has been -- by myself and
5 Dr. Small I think has been very effective.

6 I've been impressed with Mr. Bartlett's, in spite of so
7 many discouraging experiences, has pursued relentlessly
8 employment. And, you know, I think that, you know, we were in
9 the process of talking about alternatives, myself, Dr. Small
10 and Mr. Bartlett, about self-employment and trying to get him
11 to feel confident enough that he can do that. I think he could
12 be very successful. I think he -- part of the difficulty has
13 been overcoming some of his inherent shyness. He's not the
14 most -- he's not the best at self-promotion, and so we're
15 talking about ways in which that can be dealt with and because
16 I do think that, you know, I've -- I mean, I've seen what he's
17 accomplished. I mean, he didn't graduate from high school and
18 he got his GED, and then he went through the kind of training
19 that he's received has been remarkable at a young age and all
20 the Metasoft, you know, every certification you can get. And
21 so I think his work history when he's been stable enough to be
22 able to be focused has been -- speaks for itself. I think he
23 can be very successful, even more successful than he's ever
24 imagined given that he's stable and he's in remission. It's
25 the longest he's been in remission in my knowing Mr. Bartlett.

1 Q. Thank you.

2 Is there anything else you want to tell the Court?

3 A. I don't think I can add any more, impress upon the Court
4 any more my -- my hopes that the Court will show some leniency
5 in this circumstance and to recognize that -- that when you see
6 someone, anyone who's had that severity of mental illness and
7 still does make the kind of efforts he has to be a responsible
8 father and a parent and a responsible member of society,
9 it's -- I just hope the Court will consider that in their
10 decision as to his disposition. That's all.

11 Q. Thank you.

12 MS. SAVIR: Nothing further, Your Honor.

13 THE COURT: All right. Mr. Glassman, do you wish to
14 ask Dr. Heintzelman any questions?

15 MR. GLASSMAN: I just did have maybe one question for
16 Dr. Heintzelman.

17 EXAMINATION

18 BY MR. GLASSMAN:

19 Q. In the second paragraph of the letter, and you spoke about
20 it today, you talked about a lot of different job leads,
21 applications that were -- didn't pan out. Did that
22 information, does that come from Mr. Bartlett?

23 A. That's correct.

24 Q. Okay.

25 THE COURT: Thank you. Anything else, Mr. Glassman?

1 MR. GLASSMAN: No, Your Honor. Thank you.

2 THE COURT: Anything else from Dr. Heintzelman?

3 MS. SAVIR: No, Your Honor.

4 THE COURT: Dr. Heintzelman, the Court appreciates you
5 coming here today.

6 DR. HEINTZELMAN: Thank you.

7 Excuse me, Judge, am I free to leave or should I --

8 THE COURT: Sure. Of course.

9 DR. HEINTZELMAN: Is that --

10 MS. SAVIR: Sure. Thank you.

11 THE COURT: Anything else, Ms. Savir?

12 MS. SAVIR: Yes, Your Honor. Mr. Bartlett would like
13 to say a few words.

14 THE COURT: All right.

15 THE DEFENDANT: Your Honor, I am deeply sorry and
16 remorseful for what I've done. I know there's no excuse for my
17 behavior. I was under a tremendous amount of stress, and I
18 wasn't prepared for the ramification of my actions. At the
19 time, I was facing the possibility of losing the job that I
20 had, which I ultimately did. And my parents who provided for
21 my family with -- my family and I with financial support, I
22 found out they wouldn't be able to do so after the end of the
23 year. I've applied for hundreds of jobs in the past year and
24 I've received several offers, but each time the job offer is
25 revoked because of background check, even though I disclose and

1 explain my background to the employers.

2 I ask that you please not send me to prison. I've
3 learned my lesson. I have -- this ordeal has put a great
4 strain on myself and my family, including my wife and two young
5 children who rely on me for financial support. I've since
6 started my own business, and I've just secured my first
7 project.

8 I just want to be a productive member of society, a
9 law-abiding member, and just can say with confidence that this
10 will not happen again.

11 THE COURT: What kind of business have you started?

12 THE DEFENDANT: Computer consulting.

13 THE COURT: Okay.

14 All right. Anything else --

15 MS. SAVIR: No, Your Honor.

16 THE COURT: -- Ms. Savir?

17 Mr. Glassman?

18 MR. GLASSMAN: Yes, Your Honor. I'd like to make a
19 couple of points and a recommendation to the Court.

20 To skip to the recommendation first, I agree with
21 Ms. Savir that the guideline range for this Grade C violation
22 is 6 to 12 months in prison. The United States would recommend
23 a term of imprisonment of 18 months followed by 18 months of
24 supervised release, and this is -- these are the reasons why.

25 First, if you look at Mr. Bartlett's criminal history,

1 he does have a history, a consistent history of fraudulent
2 conduct, and that is consistent with the underlying offense of
3 criminal conviction and it is consistent with the violation of
4 supervised release that brings us into court today.

5 I would say, I want to say this with the utmost
6 respect, that I -- I am sure that there has been a great deal
7 of benefit to Mr. Bartlett from the mental health treatment
8 from Mr. -- Dr. Heintzelman and Dr. Small. Whatever other
9 benefit it's doing, though, it has not stopped his fraudulent
10 conduct. He's been under their care since he was 16. He's
11 committed all of these offenses while under their care,
12 including currently when the Dr. Heintzelman said that he had
13 been in remission from his symptoms and yet fabricated the
14 fraudulent driver's license and birth certificate.

15 With respect to the point that was made by
16 Dr. Heintzelman about Mr. Bartlett's treatment while he was in
17 prison, I would simply note that Mr. Bartlett was released from
18 prison in June of 2015, and there is no indication that he was
19 unstable in any way in the supervised release report or
20 otherwise; and I'm sure that the probation officer could verify
21 that if the Court has any questions.

22 With respect to his employment efforts, in fact
23 Mr. Bartlett was employed, as he just said. He had a job and
24 has not, although everyone who comes out of prison does have
25 problems, of course, finding employment, Mr. Bartlett had

1 succeeded in finding a series of jobs. And so his violation of
2 supervised release here was actually in an effort to get a
3 better or higher-paying job, which isn't necessarily a bad
4 thing, but it is not the situation that Mr. Bartlett could not
5 find employment. He was in fact employed.

6 Now, given -- oh, I'm sorry, the -- I agree with
7 Ms. Savir's point that we wouldn't be here today if this was a
8 Grade B versus a Grade C violation. If Mr. Bartlett, for
9 example, had stolen someone else's identity or had stolen
10 money, I completely agree with that. But that is one of the
11 reasons why the government was agreeable to proceeding via the
12 Grade C violation as opposed to the Grade B.

13 Similarly, his mental health background, I agree with
14 Ms. Savir, was one of the reasons that the government was
15 agreeable in the underlying criminal case to a (c) (1) (C) plea
16 agreement for 12 months and a day of imprisonment because the
17 guidelines called for 37 to 46 months of imprisonment.

18 So taking all of that into consideration, the reasons
19 for our recommendation of 18 months in prison followed by 18
20 months of supervised release, there are two Application Notes
21 that are relevant. One is -- these are for 7B1.4. One is in
22 the case of a Grade C violation that is associated with a high
23 risk of new felonious conduct, an upward departure may be
24 warranted. The government thinks that applies.

25 And, second, where the original sentence was the

1 result of a downward departure or a charge reduction that
2 resulted in a sentence below the guideline range applicable to
3 the defendant's underlying conduct, an upward departure may be
4 warranted.

5 Both of those circumstances would seem to the
6 government to be the case here.

7 THE COURT: What was the first one again,
8 Mr. Glassman?

9 MR. GLASSMAN: The first one was in the case of a
10 Grade C violation that is associated with a high risk of new
11 felonious conduct.

12 THE COURT: Okay. Thank you.

13 MR. GLASSMAN: And so given that the original term of
14 imprisonment was 12 months and a day, the United States thinks
15 that some term of imprisonment higher than that original term
16 would be appropriate to bring home the point that fabricating
17 fraudulent documents simply can't be tolerated and the
18 fraudulent conduct must stop.

19 And then the United States does think, and I recognize
20 that Probation does not necessarily agree with the government's
21 recommendation, that there should be some additional term of
22 supervision following that term of imprisonment for all of the
23 reasons that Ms. Savir said, to ensure that in fact whatever
24 term of imprisonment, if any, the Court imposes today does
25 bring home the message that the fraudulent conduct needs to

1 stop.

2 Thank you, Your Honor.

3 THE COURT: Thank you.

4 Ms. Savir, anything else?

5 MS. SAVIR: Your Honor, I would just urge you to take
6 a look at the bigger picture. I know this Court always does.
7 That message has been driven home for Mr. Bartlett. I mean, if
8 you spend any time with him at all, you will see how remorseful
9 and -- he is for what he's done and how terrified he is by the
10 possibility of prison today.

11 You know, he has been out for two-and-a-half years.
12 He has come to terms with his significant mental illness. That
13 has -- that is a huge transformation for someone like
14 Mr. Bartlett. He is now consistently taking his medication.
15 He is engaged in productive and meaningful psychotherapy with
16 Dr. Heintzelman. Yes, there have been problems along the way,
17 and those are to be expected given the nature of his illness.
18 But I cannot wrap my mind around this idea of sending
19 Mr. Bartlett to prison for 18 months based on the nature of
20 this violation, what motivated it, what you've heard today from
21 the people -- or the person who knows him best.

22 I would ask that you consider the mitigating
23 circumstances here. There are mitigating circumstances
24 surrounding his very unfortunate choice to be untruthful during
25 this application process. It came on the heels of a very long

1 and consistent period of time when he was being truthful. I
2 know that he wishes that he could go back and change that
3 application process, but he can't. He has to deal with those
4 consequences, but he's dealing with them in a very productive
5 and therapeutic way. His doctors now know what occurred with
6 that instance, and they're going to work with him moving
7 forward to make sure that that problem doesn't repeat itself.

8 Your Honor, there is no goal under 3553(a) that would
9 be best effectuated through the imposition of a term of
10 incarceration here. I would ask that you consider an
11 alternative. He is doing well. He made a mistake. He's
12 learning from it. He's not going to repeat that mistake. But
13 he is doing -- generally he's doing very well. He's showing up
14 for psychotherapy. He's taking his meds. He's applying for
15 jobs. He's doing side jobs, consulting jobs in the meantime
16 until he finds something stable and long-term. He is a good
17 husband, a good father. He is paying his restitution back a
18 hundred dollars a month consistently. This is someone who
19 wants to do well, but he suffers from a terrible illness and
20 he's not perfect. None of us are. But for him, he faces even
21 more difficult obstacles than the run-of-the-mill defendant who
22 comes before you on a supervised release violation.

23 Given the overwhelming quantity of mitigating
24 circumstances here, I would ask that you consider an
25 alternative this one time for him. Let him continue with

1 therapy under the supervision of Dr. Small and Dr. Heintzelman,
2 extend his supervision for as many years as you think
3 appropriate. It's clearly doing him well. He's someone who
4 has not been able to stay on meds until the Court imposed an
5 order that he stay on it, and he's been compliant with that
6 order. So I would ask that you reimpose that condition, extend
7 the term of supervision for a number of years, and let him
8 continue and learn from this mistake.

9 THE COURT: Thank you, Ms. Savir.

10 Anything else, Mr. Glassman?

11 MR. GLASSMAN: Nothing further, Your Honor.

12 THE COURT: I have a question for you or Ms. Mutter,
13 and that is assuming he's going back to prison, is there any
14 way we can be assured that he can get his medication while he's
15 there?

16 MR. GLASSMAN: Let me confer with Ms. Mutter before
17 answering the Court.

18 THE COURT: Okay.

19 (Mr. Glassman conferring with Probation Officer Mutter.)

20 MR. GLASSMAN: Your Honor, after conferring with
21 Ms. Mutter, we -- it's our understanding that the Bureau of
22 Prisons does treat people with significant mental health
23 disorders. And part of the -- part of my comments earlier were
24 that when he was released from prison last time, there was --
25 he was not unstable or in any way out of control. But I would

1 be happy to give this Court my word as an officer of the court
2 that I will follow up with the Bureau of Prisons specifically
3 to ensure that whatever psychiatric medications are prescribed
4 are indeed administered.

5 THE COURT: All right. Because that probably concerns
6 me more than anything else. If the situation is under control
7 and if he weren't going to be -- if at least his psychological
8 state is stable, I don't want to destabilize him by putting him
9 in an environment where he's not going to get the medication he
10 needs because it seems to be successful. So I'd like some
11 assurance from the Bureau of Prisons that he will get the kind
12 of psychiatric medication that he needs.

13 MR. GLASSMAN: And, Your Honor, I'd be happy if
14 Ms. Mutter has anything further, I didn't mean to cut her off.

15 PROBATION OFFICER MUTTER: I don't have anything
16 further, Your Honor. I know that there are different care
17 levels in prison. There's care level one, two, and three, and
18 somebody with a significant and chronic mental disease would
19 get treatment in the prison. They may not get the same exact
20 medicine that they're on depending on, you know, the cost and
21 things like that, but it's my understanding that he was treated
22 in prison previously.

23 MS. SAVIR: Your Honor, that is incorrect. And I
24 would like to ask for a continuance if Your Honor is going to
25 base your decision on this situation because my understanding

1 is that the BOP disagreed with Dr. Heintzelman and Dr. Small's
2 diagnosis in the first place and that he was unmedicated during
3 his entire term of imprisonment. And I believe that we can get
4 a clear answer on this issue if it's --

5 THE COURT: That's very important to me. I would like
6 to know that because I think that would make a huge difference
7 because, frankly, my intention would be to send Mr. Bartlett to
8 prison because -- because of his previous conduct; some of the
9 reasons that the government asked for an upward departure, that
10 he did receive a break from the Court earlier; that this
11 violation is the result of new felonious conduct. That
12 concerns the Court very much that he's got a history of
13 fraudulent conduct and it seems to be continuing regardless of
14 whether he is or isn't medicated, and I think there has to be
15 some penalty for that. However, if he is going to go to the
16 Bureau of Prisons and be unmedicated, I'm not willing to allow
17 that.

18 So we're going to recess this hearing in progress, and
19 I would like something definitive from the Bureau of Prisons.

20 And I'm sure, Ms. Mutter, do you have enough of his
21 psychiatric records or do you need to get records from
22 Dr. Small and Dr. Heintzelman that the Bureau of Prisons can
23 evaluate?

24 PROBATION OFFICER MUTTER: Yes, Your Honor, I believe
25 that we would need to procure the most recent records in order

1 for that to happen.

2 THE COURT: Okay. Ms. Savir, can you provide those to
3 Ms. Mutter?

4 MS. SAVIR: I sure can, Your Honor.

5 THE COURT: All right. And I think, then, we'll just
6 continue this hearing until I can get some definitive answer
7 from the Bureau of Prisons, which I know is not easy to get.
8 But I'd like to know if he's going to be medicated and how he's
9 going to be medicated if he is sent to the Bureau of Prisons.

10 MS. SAVIR: And, Your Honor, would you like us to
11 confirm whether or not he was given medication during his last
12 term of imprisonment?

13 THE COURT: Yes. That would be helpful also.

14 MS. SAVIR: Thank you.

15 THE COURT: Thank you.

16 All right. We'll continue this matter.

17 (Proceedings concluded at 12:05 p.m.)

18 - - -

20 C E R T I F I C A T E

21 I certify that the foregoing is a correct transcript
22 from the record of the proceedings in the above-entitled
23 matter.

24 s/Julie A. Wolfer
Julie A. Wolfer, RDR, CRR
Official Reporter

25